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CHEMICAL MANUFACTURERS ASSOCIATION DEPT. OF TRANSPORTATION

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June 21, 1999

Docket Clerk
U.S. Department of Transportation
Research and Special Programs Administration
Room PL 401
400 Seventh Street, SW
Washington, DC 20590-0001

RE: Docket RSPA-99-5013-15
Hazardous Materials: Revisions to the Incident Reporting Requirements and the
Detailed Hazardous Materials Incident Report DOT Form F5800.1

Dear Sir or Madam:

Please find enclosed three copies of the written comments of the Chemical Manufacturers Association (CMA) regarding the Research and Special Programs Administration docket referenced above.

Please date-stamp one copy of the comments and return it to Mike Heimowitz, CMA, at the address listed above. If you need additional information or clarification, please contact Mr. Heimowitz at (703) 741-5255.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Speight".

Randy Speight
Co-Leader, Distribution Team

A handwritten signature in black ink, appearing to read "Joe J. Mayhew".

Joe J. Mayhew
Vice President, Regulatory Affairs

Enclosures

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

DOCKET NO. RSPA-99-5013 (HM-229)

HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REQUIREMENTS
AND THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT FORM F5800.1

COMMENTS OF THE
CHEMICAL MANUFACTURERS ASSOCIATION

MONDAY, JUNE 21, 1999

INTRODUCTION

The Chemical Manufacturers Association (CMA) is a nonprofit trade association whose member companies represent more than 90% of the productive capacity of basic industrial chemicals in the United States. CMA appreciates the opportunity to comment. This rulemaking interests CMA members for several reasons. Our members ship and receive hazardous materials by all modes of transportation. Incidents involving those shipments are often subject to reporting under current Department of Transportation (DOT) regulations. Any changes to the reporting requirements could have an impact on what is reported and who makes the report. Depending on the final rule in this docket, CMA members, in their roles as shippers and receivers, may be required to report incidents to DOT.

Modifications to the incident reporting form or regulations may also affect the performance measure for CMA's Responsible Care® Distribution Code. CMA members and Responsible Care® Partner companies are implementing the principles of this initiative to make continuous improvement in their environmental, health and safety performance. The DOT incident database serves as the basis for tracking the chemical industry's success in carrying out the management practices in the Distribution Code.

Finally, as part of implementing the Distribution Code, CMA members and Partners are using risk assessment and risk management for chemical distribution. The proposed changes to the reporting form could potentially provide useful data for the risk management process.

COMMENTS

CMA supports the comments filed in this docket by the F5800 Task Force. As noted in the F5800 Task Force submission, signatories reserved the right to file additional comments. Here are CMA's additional comments in this docket:

In the response to Question 1, the F5800 Task Force wrote:

It is suggested the reporting requirements be amended to reflect the reporting party as the party who is in physical control of the activities at the time the release occurs. Specifically, the reporting requirements should be changed to read as follows:

Each person shall report "each incident that occurs while a hazardous material is in its physical control during the course of transportation (including loading, unloading, and temporary storage)".

Under current regulations, the incident reporting requirements apply only to carriers that transport hazardous materials. If DOT adopts the F5800 Task Force recommendation, entities other than carriers will be subject to the reporting requirements. This will represent a significant change in industry reporting practices for some entities, particularly shippers and receivers of hazardous materials. CMA supports this recommended change to the regulations because it is consistent with our position that DOT should maintain its jurisdiction over the transportation of hazardous materials, including the loading, unloading, and storage incidental to transportation.

CMA has additional comments on two other questions posed in the advance notice. Question 10 asks, "*Should RSPA expand the exceptions in Section 171.16(c) to include any other hazardous material, class, division, or packing group; or quantity limitations? If so indicate the exception and why.*"

We agree with the comments provided to RSPA by the F5800 Task Force concerning exceptions, but suggest that RSPA also consider developing a reporting exception for minor spills or "drips" of certain classes of materials from bulk containers that occur in temporary storage (e.g., awaiting loading, unloading, or transport) at a consignor or consignee's facilities. This would reduce the burden of reporting spills of de minimis quantities that pose a minimal risk to health, safety or the environment and do not add value to the incident database. Also, if necessary, facilities have trained personnel that can quickly contain or stop minor spills.

Question 12 asks, "*Should RSPA develop an abbreviated incident report for incidents of low severity? What criteria should be used for a threshold? What minimal information should be required for a low severity incident?*"

In response to Question 12, CMA supports the general comments submitted by the F5800 Task Force. However, if RSPA adopts a bulk exception as suggested in our response to Question 10, the affected incidents would not have to be reported on either the census or longer form proposed by the Task Force.

CONCLUSION

CMA supports DOT's efforts to improve the incident reporting form and database. Both the form and database are important to CMA's performance measure for the Responsible Care® Distribution Code and can be used to support Code-related risk management efforts.

CMA is a signatory to the comments filed by the F5800 Task Force in this docket. In particular, the Task Force recommendation, which extends the reporting requirement beyond carriers to shippers, receivers and others, is consistent with CMA's position on the jurisdiction of DOT over hazardous materials transportation.

Concerning exceptions to reporting, CMA supports the proposals concerning non bulk containers submitted by the F5800 Task Force, but also suggest excepting some spills of small quantities of some materials from bulk containers. Reporting small discharges of materials that do not threaten health, safety or the environment would impose an unnecessary burden and not provide commensurate value to the database.